

RANDALL S. LUSKEY (SBN: 240915)
rluskey@paulweiss.com
**PAUL, WEISS, RIFKIND, WHARTON
& GARRISON LLP**
535 Mission Street, 24th Floor
San Francisco, CA 94105
Telephone: (628) 432-5100
Facsimile: (628) 232-3101

ROBERT ATKINS (*Pro Hac Vice* admitted)
ratkins@paulweiss.com
CAITLIN E. GRUSAUSKAS (*Pro Hac Vice* admitted)
cgrusauskas@paulweiss.com
ANDREA M. KELLER (*Pro Hac Vice* admitted)
akeller@paulweiss.com

**PAUL, WEISS, RIFKIND, WHARTON
& GARRISON LLP**
1285 Avenue of the Americas
New York, NY 10019
Telephone: (212) 373-3000
Facsimile: (212) 757-3990

Attorneys for Defendants
UBER TECHNOLOGIES, INC.,
RASIER, LLC, and RASIER-CA, LLC

[Additional Counsel Listed on Following Page]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE: UBER TECHNOLOGIES, INC.,
PASSENGER SEXUAL ASSAULT
LITIGATION

Case No. 3:23-md-03084-CRB

**SUPPLEMENTAL DECLARATION OF
JAMIE BROWN**

This Document Relates to:

ALL ACTIONS

Judge: Hon. Lisa J. Cisneros
Courtroom: G – 15th Floor

1 MICHAEL B. SHORTNACY (SBN: 277035)

mshortnacy@shb.com

2 **SHOOK, HARDY & BACON, L.L.P.**

2049 Century Park East, Suite 3000

3 Los Angeles, CA 90067

Telephone: (424) 285-8330

4 Facsimile: (424) 204-9093

5 PATRICK OOT (*Pro Hac Vice* admitted)

oot@shb.com

6 **SHOOK, HARDY & BACON, L.L.P.**

7 1800 K Street NW, Suite 1000

Washington, DC 20006

8 Telephone: (202) 783-8400

9 Facsimile: (202) 783-4211

10 KYLE N. SMITH (*Pro Hac Vice* admitted)

ksmith@paulweiss.com

11 JESSICA E. PHILLIPS (*Pro Hac Vice* admitted)

jphillips@paulweiss.com

12 **PAUL, WEISS, RIFKIND, WHARTON
& GARRISON LLP**

13 2001 K Street, NW

14 Washington DC, 20006

Telephone: (202) 223-7300

15 Facsimile: (202) 223-7420

16 *Attorneys for Defendants*

17 UBER TECHNOLOGIES, INC.,

18 RASIER, LLC, and RASIER-CA, LLC

1 I, Jamie Brown, declare under penalty of perjury as follows:

2 1. I am a Vice President of Global Advisory Services at Lighthouse, which provides
3 eDiscovery services to Uber Technologies Inc. (“Uber”), a Defendant in the above captioned matter.
4 I previously set forth my qualifications in a declaration provided in support of Uber’s ESI protocol on
5 April 12, 2024, which are incorporated herein.

6 2. I submit this declaration at Defendant Uber’s and its outside counsel, Paul Weiss’s and
7 Shook Hardy and Bacon’s request and as a supplement to my previous declaration filed on
8 June 7, 2024, in which I provided information related to Plaintiffs’ proposed number of custodians
9 and proposed search terms.

10 3. I understand that the parties disagree about certain custodians’ data to be collected –
11 specifically, 18 of the total 55 custodians.¹ In connection with their request, Plaintiffs submitted the
12 declaration of Douglas Forrest on August 19, 2024 (ECF 1137-7) setting forth four reasons why
13 Plaintiffs’ proposed list is justified, to which I will respond in turn. I am familiar with the facts
14 contained herein and am prepared to testify to the extent required.

15 **Argument 1: Deduplication**

16 4. Mr. Forrest argues that Uber’s collection will be deduplicated pursuant to Section 12
17 of the ESI Order and that “[a]ny duplicates in the documents of the [18] disputed custodians will be
18 filtered out before any review and will have no or minimal effect on the efforts required of Uber.”
19 This statement is an oversimplification and incomplete.

20 5. This assertion is an oversimplification because it suggests that deduplication is
21 guaranteed to drastically reduce the volume of data subject to review. Realistically, the impact
22 deduplication has on data volume depends upon the method used and how duplicative the content
23 actually is, which is driven by the relationship between the custodians, overlap of roles and likelihood
24 the same content was shared / retained / collected from the custodian population. In this case, pursuant
25 to the ESI protocol, a document’s “hash value” serves as the sole method for deduplication, which is
26 the narrowest method for identifying unique content. A hash value, such as MD5 or SHA-1, is a
27

28 ¹ Counsel for Uber notified me that Uber agreed to one additional custodian, thereby reducing the
number in dispute from 19 to 18.

1 computer generated algorithm that is a widely used and accepted method for authenticating and
 2 deduplicating documents.² It is important to note that documents truly have to be identical to have the
 3 same hash value – for example, even a difference of one letter (or space!) would generate a different
 4 value. In contrast, the ESI protocol does not permit deduplication of “near-duplicates,” such as a
 5 document that is substantively the same but for various reasons like the example above, has a different
 6 hash value – the point being that the hash value will exclude only a fraction of the documents that are
 7 actually duplicative for all intents and purposes.

8 6. Further, Mr. Forrest’s statement paints an incomplete picture of how deduplication
 9 impacts the broader discovery process, as if, because of deduplication methods, there is no time, cost
 10 or burden associated with the discovery of the underlying data. This ignores the fact the data still has
 11 to be collected and processed before it can be deduplicated; more importantly, it ignores provisions in
 12 the ESI protocol requiring substantial manual review.

13 **Argument #2: Reduction Rate Using Keywords**

14 7. Mr. Forrest’s second argument is that the application of search terms should result in
 15 the same reduction rate of 68% as with a sample set of other custodians. Mr. Forrest’s conclusions
 16 are purely speculative, as the terms have not actually been applied against this yet-to-be-collected data
 17 set.

18 8. He then suggests that any reduction using keywords removes such a substantial portion
 19 of the document universe that it virtually “eliminates” the need for manual review, which simply is
 20 not the case and ignores that the ESI protocol necessitates a manual review of a substantial amount of
 21 documents.

22 **Argument #3: Use of TAR**

23 9. Mr. Forest’s third argument is, “[T]o the extent that there were still non-responsive
 24 documents in the population after this 68% reduction, the TAR 2.0 process being implemented here
 25 will largely weed out any remaining non-duplicate, non-responsive documents”

27 ² The algorithm generates a unique value (sometimes referred to as a digital fingerprint) for a given
 28 document; the unique values can then be compared to other documents for sameness in an automated
 manner.

10. This argument implies that the search terms are so precise that they will hit only on responsive documents, but common sense suggests otherwise. In reality, search terms are used only to initially cull the data, and that initial reduction is not dispositive of the responsiveness rate, which depends on many other factors, such as the search terms themselves given the context. While responsiveness rates vary, in practice, typically only a fraction of documents that hit on search terms are responsive.

11. Further, the volume of data to be reviewed – in aggregate – will be tremendous, and is attributable to the large volume of data collected and the anticipated low reduction rate associated with the search terms. Notably, the data volume in this review set represents the top 1% of cases handled by Lighthouse.

Argument 4: Production of Responsive Documents

12. Lastly, Mr. Forrest states that Uber should be required to produce non-duplicative responsive documents, some of which could be probative and/or dispositive of issues in the case. It is axiomatic that nonprivileged, responsive, and otherwise discoverable documents identified through a review process should be produced. Mr. Forrest's statement merely reflects this axiom without elaboration, and therefore does not require further response.

I affirm under penalty of perjury of the laws of the State of New York that the foregoing statement is true and correct. Executed on August 29, 2024 in New York, New York.

/s/ Jamie Brown
 Jamie Brown